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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,669	01/29/2004	Heinrich Lang	LMX-129 CON	5424

7590  
McNair Law Firm, P.A.  
P.O. Box 10827  
Greenville, SC 29603-0827

02/20/2007

EXAMINER
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SHAHER, RICKY D

ART UNIT	PAPER NUMBER
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2872

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/767,669	Applicant(s) LANG ET AL	
	Examiner Ricky D. Shafer	Art Unit 2872	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-35 is/are rejected.
- 7) ☒ Claim(s) 24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/30/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/20/2005</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/30/2006 has been entered.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 26-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 26, lines 10-11, the use of language "said framing...said framing" is vague, indefinite and/or confusing due to the fact that the language is not organized and correlated in such a manner as to structural define what applicant intents/regards as the invention. Accordingly, the metes and bounds of the claim is unclear.

In claim 33, line 3, "said holding arm" lacks proper antecedent basis.

In claim 33, lines 3-4, "said projections and indentations" lacks proper antecedent basis.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 26 and 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang ('035).

To the extent the claims are definite, Lang ('035) discloses a rearview mirror assembly for attachment to a vehicle comprising a holding element (12) carried by said vehicle; a mirror element (60) having a mirror pane (86,87) attached to a carrier plate (88); a positioning apparatus (32,62) supporting said carrier plate; a framing (24) having a configured area (26) adapted to engage with said holding element; a bracket (78, 80), including an upper strip and a lower strip and a configured area adjacent said upper and lower strip adapted to engage with said holding element (see figures 2 and 3); a plurality of connectors (82) adapted to engage with said positioning apparatus, said framing and said bracket securing said framing and said bracket with said holding element and said positioning apparatus with said bracket and said framing; wherein said mirror assembly is removably attached from said vehicle and a housing cover (22), wherein said framing and said housing cover include a hook and hook connectors (see Fig. 4 and column 4, lines 38-40). Note figures 1-4 along with the associated description thereof.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang ('035) in view of Schulz ('005).

Lang discloses all of the subject matter claimed, note the above explanation, except for except for explicitly stating that the holding arm consists of two arms.

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Schultz teaches is well known to use a plurality of arms in the same field of endeavor for the purpose of attaching a mirror assembly to a vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the holding arm of Lang to include a plurality of individual arms as taught by Schultz in order to selectively replace damage/defective arm component(s) so as to reduce manufacturing costs or after market costs to an individual.

8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lang ('035) in view of Bos et al ('996) and Perry ('814).

Lang discloses all of the subject matter claimed, note the above explanation, except for explicitly stating that the framing and cover are made of a particular plastic material.

Bos et al teaches it well known to use an ABS plastic material in the same field of endeavor for the purpose obtaining a housing cover.

Perry teaches it well known to use a fiberglass reinforced plastic material in the same field of endeavor for obtaining a framing (bracket).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the housing cover of Lang to an ABS plastic material as taught by Bos et al in order to provide a durable, light weight mirror cover and similarly modify the framing of Lang to include a fiberglass reinforced plastic material as taught by Perry in order to provide a durable, light weight framing element with dampening characteristics.

9. Claims 24-35 are objected to because of the following informalities:

In claim 24, line 14, the language "the clamping part" should be changed to read --the clamping bracket--.

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In claim 25, line 4, the language --said-- should be inserted before “framing”.

In claim 25, line 5, the language “said first openings” should be changed to read --said at least first opening--.

In claim 25, line 6, the language “said first” should be change to read --the first--.

In claim 26, line 8, the language “strip” should be changed to read --strips--.

In claim 26, line 8, the language --and—should be inserted after “element;”.

In claim 26, line 13, the language “with” should be changed to read --from--.

In claim 29, line 2, the language “a hood and a snap” should be changed to read --a hook and snap--.

In claim 29, line 3, the language “said” should be inserted before “bracket”.

In claim 33, line 2, the language “selected” should be changed to read --one--.

Appropriate correction is required.

10. Claim 24 would be allowable if rewritten or amended to overcome the above mentioned objection(s), set forth in this Office action.

11. Claim 25 would be allowable if rewritten to overcome the above mentioned objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 29, 33 and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320.

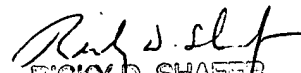
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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

February 03, 2007

  
RICKY D. SHAFER  
PATENT EXAMINER  
ART UNIT 2872